



PUBLIC INFORMATIONAL MEETINGS

The City of Kingston has to prepare it's Annual Action Plan for Fiscal Year 2010 which details the use of it's grant under the United States Department of Housing and Urban Development's Community Development Block Grant Program (CDBG) Entitlement Grant.

The City of Kingston Office of Community Development has prepared a multiyear Consolidated Plan in which the City has designed and established a unified program which will serve as the long range plan for spending the City's Annual Community Development Block Grant Funds.

The strategic plan has set forth community needs, long range program goals, specific program objectives, annual goals and benchmarks for measuring the program's progress.

To begin the annual process, the citizens of Kingston are invited to participate in informational session's on the Annual Action Plan to be held as follows:

- Thursday, January 28, 2010 at 6:00 pm, Council Chamber, City Hall, 420 Broadway, Kingston, New York
- Wednesday, February 17, 2010 at 6:00 pm, Andy Murphy Neighborhood Center, 467 Broadway, Kingston, New York

Applications for proposed funding for the Fiscal Year 2010 Annual Action Plan will be accepted until, 4:00pm, March 1, 2010.

If you need further information, please contact the Office of Community Development, Michael F. Murphy, Community Development Director at (845) 334-3924.

CITY OF KINGSTON

OFFICE OF COMMUNITY DEVELOPMENT

FY10 ENTITLEMENT GRANT APPLICATION

Groups and Organizations are allowed to request CDBG funding for eligible projects and programs located in the City of Kingston.

A list of eligible activities as well as threshold criteria required by 24 CFR Part 570 is included as part of the application.

The application process is an annual and competitive one. The review process for applications is as follows:

- **A valid and current registered DUNS (*data universal numbering system*) Number is required at the time your application is submitted. If you do not have a DUNS number, HUD will not consider your application for review.**
- Each application is reviewed to verify whether it meets the mandatory Federal eligibility requirements.
- The application will be reviewed for completeness (i.e., budget, etc.). ALL required information is due at time of submission of application. If application is incomplete it will not qualify for review.
- Each application receives a preliminary funding recommendation to be presented to the Mayor, Community Development Director and Community Development Advisory Board.
- Applications are reviewed by the Mayor, Community Development Director and Community Development Advisory Board.

APPLICANT/PROGRAM INFORMATION

Legal Name: _____

Address: _____

Telephone #: _____ Fax #: _____ E-Mail: _____

Federal ID #: _____ DUNS # _____

Fiscal Year End Date: _____

Contact Person: _____ Title: _____

Dun & Bradstreet DUNS Number Guide



Decide with Confidence

Most potential and existing **US Government Contractors, Grantees and Loan Recipients** are required to obtain a DUNS Number for US Government registration purposes. The DUNS Number verifies the legal name, physical address and tradestyle (DBA) of each location and is the key to starting the CCR registration process.

Data Universal Numbering System (DUNS) Number: The DUNS Number is a unique nine-digit identification number provided by Dun & Bradstreet (D&B). The DUNS Number is randomly issued, never used twice and is site specific. Each distinct physical location of an entity is assigned its own DUNS Number worldwide.

Obtaining a DUNS Number is a quick and easy process. It is the responsibility of the US Government contractor, grantee or loan recipient to obtain their existing DUNS Number or to take the steps required to request a new DUNS Number. To confirm your current status with D&B, all US locations should contact the D&B Government Customer Response Center (GCRC) using the toll-free number or the online webform process. International locations (non-US) are asked to use the online internet link only. Obtaining a DUNS Number is absolutely **FREE** for all entities doing business with the Federal Government. The process to request a DUNS Number takes about 15 minutes when calling and responses to webform submittals online are returned within 1-2 business days. The following information is requested to obtain a DUNS Number:

<ul style="list-style-type: none">• Legal Company Name• Headquarters Company Name and Address• Tradestyle or DBA Company Name• Physical Address, City, State and Zip Code	<ul style="list-style-type: none">• Mailing Address• Telephone Number• Contact Name and Title• Number of Employees at your physical location
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All DUNS requests should contact D&B by following the below instructions. Within 24 hours of issuance, the DUNS Number is generally available for starting CCR registration.

All US locations (including US Virgin Islands and Puerto Rico) can call toll free at 866-705-5711 Federal contractors - Press Option 3 Grantees - Press Option 4 Loan recipients - Press Option 5 or use the online webform process at http://fedgov.dnb.com/webform	All International (non-US) locations (including Guam, Marianas Islands and American Samoa) should use the online webform process at http://fedgov.dnb.com/webform
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Managing your DUNS Number: D&B will periodically contact DUNS Numbered locations to verify a company's information for accuracy. Organizations with multiple DUNS Numbers may request a FREE family tree listing from D&B to help determine which branch/division/subsidiary location has an existing DUNS Number and if the information on file at D&B is current. D&B recommends organizations with multiple DUNS Numbers have a single point of contact for controlling DUNS Number requests to ensure the appropriate branches/divisions/subsidiaries have the accurate DUNS Numbers for Federal purposes.

Exhibit I: Project or Program Description (attach a separate narrative):

Exhibit II: Needs Description (attach a separate narrative):

Exhibit III: Budget (attached a separate page amount requested and other sources of funding):

Exhibit IV: Terms and Conditions of Non CDBG Sources of Financing and/or Funding (attach as Exhibit):

Exhibit V: Applicant Information (Articles of Incorporation and By Laws for not-for-profit applicants, ownership structure for private for-profit applicants):

Exhibit VI: Narrative Documenting Applicant's Capacity to Successfully Carryout the Program, or Complete the Project:

Exhibit VII: Estimated Number of Low/Moderate Income Individuals and/or Families that will be assisted as a result of this Program or Project (attach a separate chart):
The City of Kingston and the Kingston Community Development Agency reserve the right to request additional information from the applicant if, in their sole discretion, the information submitted is incomplete or insufficient to allow a funding decision to be made.

All information submitted by the applicant is subject to F.O.I.L. unless the applicant notifies the City that specific information contained in their Application is proprietary and should not be released. The City will make the final disclosure determination regarding the applicants request for confidentiality.

ATTACHMENTS

- Sec. 570.201 Basic eligible activities
- Sec. 570.202 Eligible rehabilitation and preservation activities
- Sec. 570.203 Special economic development activities
- Sec. 570.204 Special activities by Community-Based Development Corporations (CBDOS)
- Sec. 570.207 Ineligible activities
- Sec. 570.208 Criteria for national objectives
- Sec. 570.209 Guidelines for evaluating and selecting economic development projects

**A GUIDE TO THE COMMUNITY DEVELOPMENT BLOCK GRANT
(CDBG)**

FISCAL YEAR 2010 ENTITLEMENT PROGRAM

CITY OF KINGSTON

OFFICE OF COMMUNITY DEVELOPMENT

CITY HALL - 420 BROADWAY

KINGSTON, NEW YORK 12401

JAMES M. SOTTILE, MAYOR

**Michael F. Murphy, COMMUNITY DEVELOPMENT DIRECTOR
(Phone: 845-334-3924/Fax: 845-334-3932)**

The purpose of this guide is to assist applicants to design projects that meet the federal requirements and local priorities of the City of Kingston Community Development Block Grant (CDBG) Entitlement Program for Fiscal Year 2010.

The goal of the CDBG program is to develop viable urban communities through:

- Housing
- Economic Development
- Elimination of Slums and Blight
- Expansion of Community Services
- Neighborhood Revitalization

As a participant in the "Entitlement " (CDBG) program, the City of Kingston receives an annual allocation of federal funds based on a formula based on HUD's budget included in the "Omnibus Appropriations Act for FY 2005" which dictates an across the board reduction of 0.80 percent. The City of Kingston allocation for FY 2009 was \$184,225.

The primary objective of the CDBG program is to benefit persons of low and moderate income. By regulation, the City must allocate at least 70% of its annual CDBG funding on activities that benefit persons of low and moderate income, households, and neighborhoods. The actual regulations may be found in the "Code of Federal Regulations" (CFR) in volume 24 (Housing and Urban Development), Part 570 (Community Development Block Grants).

ENTITLEMENT FUNDING CYCLE

• APPLICATIONS FOR ENTITLEMENT FUNDING

Application materials are available in January with the application due on March 1, 2010. During the application stage, staff is available to provide technical assistance to assist in the development of an application for CDBG funding.

• PUBLIC INFORMATIONAL SESSIONS AND PUBLIC HEARINGS

The City of Kingston will hold at least two (2) public information sessions to receive public comment on how the FY 10 funds should be spent. Further, two (2) public hearings will be held on the Annual Action Plan and proposed funding applications. Comments and proposals relating to the Entitlement program may be submitted at any time during the program year to the Office of Community Development.

Applicants seeking funding are encouraged to speak in support of their proposals at the scheduled public hearings in March and April. At the second public hearing scheduled in April for comment on the Citizen Advisory Committee's recommendations to the City Council.

- **PROJECT SELECTION**

The Mayor, Community Development Director, and the Community Development Citizen Advisory Committee reviews all submitted applications for adherence to HUD eligibility requirements and examines them with respect to the prioritized needs outlined in the City's Consolidated Plan. The Committee then offers its recommendation to the City Council for its approval in April.

The recommended slate of projects is published in The Daily Freeman for a 30 day review and comment period. Following the 30 day public comment period (May), the Council votes on the annual slate of activities and submits the final plan to the U.S. Department of Housing and Urban Development for their approval in May.

- **ENVIRONMENTAL REVIEW**

All Entitlement funded projects are subject to the National Environmental Policy Act of 1969 that requires a review for impact regarding flood plain, noise, historic preservation, hazardous waste and other potential environmental impacts. The results of this assessment are summarized and published in The Daily Freeman with a 15 day period for public review and comment. The results are then sent to HUD and subject to another 15 day public comment period. HUD must approve the City's environmental impact submission before funds may be expended on projects listed in the final submission.

After a period of review, HUD forwards a Grant Agreement to the City for execution by the Mayor. HUD also forwards a Release of Funds which means the environmental review is complete and that the City of Kingston can begin using the funds.

- **ELIGIBLE ACTIVITIES (see attached addendum for descriptions)**

- Acquisition of Real Property
- Disposition of Real Property
- Public Facilities and Improvements
- Clearance
- Public Services
- Interim Assistance
- Relocation
- Loss of Rental Income
- Privately Owned Utilities
- Housing Rehabilitation
- Code Enforcement
- Special Economic Development Activities
- Microenterprise Assistance
- Special Activities by CBDO's (Community Based Development Organizations)
- Homeownership Assistance
- Planning and Capacity Building

- **INELIGIBLE ACTIVITIES (see attached addendum for descriptions)**

- Buildings for General Conduct of Government
- General Government Expenditures
- Political Activities
- Purchase of Equipment
- Furnishings and Personal Property
- Operating and Maintenance
- Income Payments
- Religious Prohibition

- **SCHEDULE OF PUBLIC SESSIONS**

- 18th of January, 2010, placement of display ad in Daily Freeman for Public Informational meetings
- 28th of January, 2010, Public Information Session at 6:00 PM, Council Chambers, City Hall, 420 Broadway, Kingston, New York
- 17th of February, 2010, Public Information Session at 6:00 PM, Andy Murphy Neighborhood Center, 467 Broadway, Kingston, New York
- 1st of March, 2010, proposed funding applications due to Office of Community Development
- 16th of March, 2010, 1st Public Hearing on proposed funding applications at 6:00 PM, Council Chambers, City Hall, 420 Broadway, Kingston, New York
- 1st of April, 2010, placement of ad in Daily Freeman of 2010 Annual Action Plan
- 7th of April, 2010, Final Public Hearing on recommendations of FY 10 Action Plan at 6:00 PM, Council Chambers, City Hall, 420 Broadway, Kingston, New York
- 4th of May, 2010, Final Council vote on FY 09 Action Plan to be submitted to HUD for final approval, (time) PM Council Meeting, City Hall, Council Chambers

All proposed activities must meet and document compliance with meeting the national objectives to be eligible for funding.

- **ADDENDUM ON ELIGIBLE AND INELIGIBLE ACTIVITIES DESCRIPTIONS**

- ELIGIBLE ACTIVITIES**

- **Acquisition of Real Property**

CDBG funds may be used to acquire real property by purchase, long term lease, or by donation. Real property includes, land, air rights, easements, water rights, rights of way, buildings and other real property improvements. Real property acquisition does not include movable equipment, furnishings, machinery, land write downs in which the land is purchased at one price and then sold to the same entity at a lower price, or acquiring newly constructed housing. Funds may be provided to private for profit entities if the property is rehabilitated/sold for residential purposes meeting a national objective. Acquisition of real property must always be viewed in terms of the ultimate use of the property in meeting a national objective.

- **Disposition of Real Property**

Funds may be used to dispose of real property acquired with CDBG or urban renewal funds provided the property will be used to meet a national objective. To be eligible, the use after disposition must meet a national objective. Proceeds from the disposition are program income to the CDBG program.

- **Public Facilities and Improvements**

CDBG funds may be provided to public agencies and private non profits for acquisition, construction, reconstruction, rehabilitation, or installation of public improvements or facilities provided they meet a national objective. Public improvements and facilities include: shelters, water and sewer facilities, flood and drainage improvements, fire protection facilities, community centers, senior centers, health centers, parking, streets, curbs and sidewalks, parks and playgrounds. Eligible expenditures do **not** include costs of operating or maintaining the public facilities and improvements once they are renovated or constructed. Also **not** eligible are the costs of purchasing construction equipment and costs of furnishings and other personal property except fire fighting equipment. Public facilities may be owned by private non profit organizations but such facilities must be open for use by the public during normal hours of operation. Government buildings may be considered public facilities when they provide public services for other than the general conduct of government.

- **Clearance**

CDBG funds may be used for clearance, demolition, and removal of buildings and improvements provided these activities meet a national objective. Demolition of HUD assisted housing units may be undertaken only with the prior approval of HUD.

- **Public Services**

CDBG funds may be used to provide public services including but are not limited to: child care, health care, job training, recreation, education, public safety, fair housing, senior services, homeless services, drug abuse services, energy conservation testing. Public services do **not** include payments to individuals for food, clothing, rent or other income payments. Eligible program costs for public services include payment for labor, supplies and materials to administer the program and the costs of operating that portion of a facility in which the public is located. Eligible costs may also include the purchase or lease of furnishings, equipment, or other necessary personal property, which are typically not eligible expenditures under other activities. A maximum of 15% of annual Entitlement Grant may be allocated for public services.

- **Interim Assistance**

CDBG Funds may be used for certain activities on an interim basis provided the activities meet a national objective. Eligible interim assistance includes projects that are a prelude to permanent improvements in a deteriorating area when there are determinable signs of physical deterioration and where immediate action is necessary to arrest the deterioration. Eligible activities include repair of streets, sidewalks, public buildings, parks and playgrounds and publicly owned utilities, special trash collection and neighborhood cleanup campaigns. CDBG funds may be used to alleviate emergency conditions that threaten public health and safety when designated an emergency by the City of Kingston. Eligible activities include repair to streets, sidewalks, public buildings, and public owned utilities, special trash collection and neighborhood cleanup campaigns, snow removal and improvements to private properties. These activities may not go beyond what is necessary to alleviate the emergency condition. {570.201(f)(2) and 570.200(3)}.

- **Relocation**

CDBG funds may be used for relocation payments and assistance to displaced individuals, families, businesses, non profit organizations and farms. Relocation assistance is **required** if the displacement is caused by CDBG funded activities. In these cases, assistance is required under federal regulations that specify the eligibility and amount of payments to be provided. Relocation assistance is **optional** when displacement is caused by factors other than CDBG funded activities.

- **Loss of Rental Income**

CDBG funds may be used to pay housing owners for losses of rental income incurred in holding, for temporary periods, housing units to be used for the relocation of persons and families displaced by CDBG assisted activities (570.201(j)).

- **Privately Owned Utilities**

CDBG funds may be provided to public agencies and non profit organizations to acquire, construct, reconstruct, rehabilitate, or install distribution lines and facilities of privately owned utilities provided the activity meets a national objective.

- **Housing Rehabilitation**

CDBG funds may be used to finance the costs of rehabilitation in the following manner:

Eligible Types of Property

- Residential - privately or publicly owned
- Commercial/Industrial - if owner by a for profit, rehabilitation is limited to exterior improvements and correcting code violations
- Other - nonprofit owned nonresidential improvements

Eligible Types of Assistance

- Costs - labor, materials, supplies and other required expenses for rehabilitation
- (Re) Financing - grants, loans, etc. may be provided under this category
- Property acquisition - assistance to private entities for use/resale for residential use
- Renovation - conversion of a closed building from one use to another
- Security devices, water and sewer connection, barrier removal, historic preservation
- Lead based paint hazard evaluation/reduction
- Rehabilitation services

Housing rehabilitation dose **not** include creation of secondary housing units, installation of luxury items such as a swimming pool, cost of equipment, furnishings, or other personal property not an integral structural fixture such as air conditioners or washer and dryers, or labor costs for homeowners to rehabilitate their own properties.

- **Code Enforcement**

CDBG funds may be used for code enforcement only in deteriorating areas where enforcement, together with public/private improvements, rehabilitation, or services, may be expected to arrest the decline of an area.

- **Special Economic Development Activities**

CDBG funds may be used for special economic development activities carried out by public agencies, non profit organizations and private for profit businesses. Funds may be used for the following:

- Activities carried out by **grantee or non profit** including acquisition, (re) construction, rehabilitation, or installation of commercial/industrial buildings or structures, or other real property equipment and improvements.
- Assistance to **private for profit entities** for an economic development project such as grants, loans, guarantees, technical assistance, etc.
- Economic development services in connection with the above 2 categories.

- **Microenterprise Assistance**

Grantees and other public or private organizations may use CDBG funds to facilitate economic development through the establishment, stabilization, and expansion of microenterprises (a business having five or fewer employees, one or more of who owns the business). CDBG funds can be used to provide financial assistance of any kind to an existing microenterprise or to assist in the establishment of a microenterprise.

- **Special Activities By CBDO's (Community Based Development Organizations)**

This category authorizes a grantee to designate certain types of entities to carry out a range of activities that may include activities the grantee may not otherwise carry out itself. Under this category, a qualified CBDO may only carry out the following 3 types of projects:

- Neighborhood revitalization
- Community economic development
- Energy conservation

- **Homeownership Assistance**

Grantees and their sub recipients may provide financial assistance to households of low and moderate income to assist them in the purchase of a home. CDBG funds may be used to:

- Subsidize interest rates and mortgage principal amounts
- Finance the cost of acquiring property already occupied by the household at terms needed to make the purchase affordable
- Pay all or part of the mortgage insurance premium
- Pay up to 50% of the down payment required by the mortgagee

- **Planning and Capacity Building**

Funds may be used for studies, plans, data gathering, and identification of actions designed to improve the grantee's capacity to plan and manage CDBG programs.

INELIGIBLE ACTIVITIES

- **Buildings for General Conduct of Government**

CDBG Expenditures are generally not allowed on buildings that house government offices.

- **General Government Expenditures**

Funds are not allowed for the general functions of government. However, government departments may carry out eligible projects.

- **Political Activities**

Funds may not be used for political purposes or partisan political activities such as candidate forums, voter transportation, etc.

- **Purchase of Equipment**

Equipment purchase is generally not eligible with specific exceptions including equipment necessary for a public service project.

- **Furnishings and Personal Property**

Furnishings are generally not eligible except when necessary for a public service project.

- **Operating and Maintenance**

Funds are generally not eligible for operating and maintenance except as part of a public service project.

- **Income Payments**

Funds are generally not eligible for income payments for income maintenance, housing allowances, payments of rent, mortgage, etc.

- **Religious Prohibition**

Restrictions apply to the use of CDBG Funds on buildings or programs administered by religious organizations and institutions (570.200(j)). Funds may **not** be used for the acquisition, construction, rehabilitation, etc., of structures used for religious purposes or to promote religious interests. However, funds may be used to rehabilitate buildings owned by religious entities for non religious purposes under **limited** circumstances.

[Code of Federal Regulations]
[Title 24, Volume 3]
[Revised as of April 1, 2003]
From the U.S. Government Printing Office via GPO Access
[CITE: 24CFR570.201]

[Page 41-44]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

CHAPTER V--OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PART 570--COMMUNITY DEVELOPMENT BLOCK GRANTS--Table of Contents

Subpart C--Eligible Activities

Sec. 570.201 Basic eligible activities.

CDBG funds may be used for the following activities:

(a) Acquisition. Acquisition in whole or in part by the recipient, or other public or private nonprofit entity, by purchase, long-term lease, donation, or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) for any public purpose, subject to the limitations of Sec. 570.207.

(b) Disposition. Disposition, through sale, lease, donation, or otherwise, of any real property acquired with CDBG funds or its retention for public purposes, including reasonable costs of temporarily managing such property or property acquired under urban renewal, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in Sec. 570.504.

(c) Public facilities and improvements. Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as provided in Sec. 570.207(a), carried out by the recipient or other public or private nonprofit entities. (However, activities under this paragraph may be directed to the removal of material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to public facilities and improvements, including those provided for in Sec. 570.207(a)(1).) In undertaking such activities, design features and improvements which promote energy efficiency may be included. Such activities may also include the execution of architectural design features, and similar treatments.

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intended to enhance the aesthetic quality of facilities and improvements receiving CDBG assistance, such as decorative pavements, railings, sculptures, pools of water and fountains, and other works of art. Facilities designed for use in providing shelter for persons having special needs are considered public facilities and not subject to the prohibition of new housing construction described in Sec. 570.207(b)(3). Such facilities include shelters for the homeless; convalescent homes; hospitals, nursing homes; battered spouse shelters; halfway houses for run-away children, drug offenders or parolees; group homes for mentally retarded persons and temporary housing for disaster victims. In certain cases, nonprofit entities and subrecipients including those specified in Sec. 570.204 may acquire title to public facilities. When such facilities are owned by nonprofit entities or subrecipients, they shall be operated so as to be open for use by the general public during all normal hours of operation. Public facilities and improvements eligible

for assistance under this paragraph are subject to the policies in Sec. 570.200(b).

(d) Clearance activities. Clearance, demolition, and removal of buildings and improvements, including movement of structures to other sites. Demolition of HUD-assisted or HUD-owned housing units may be undertaken only with the prior approval of HUD.

(e) Public services. Provision of public services (including labor, supplies, and materials) including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, fair housing counseling, energy conservation, welfare (but excluding the provision of income payments identified under Sec. 570.207(b)(4)), homebuyer downpayment assistance, or recreational needs. To be eligible for CDBG assistance, a public service must be either a new service or a quantifiable increase in the level of an existing service above that which has been provided by or on behalf of the unit of general local government (through funds raised by the unit or received by the unit from the State in which it is located) in the 12 calendar months before the submission of the action plan. (An exception to this requirement may be made if HUD determines that any decrease in the level of a service was the result of events not within the control of the unit of general local government.) The amount of CDBG funds used for public services shall not exceed paragraphs (e) (1) or (2) of this section, as applicable:

(1) The amount of CDBG funds used for public services shall not exceed 15 percent of each grant, except that for entitlement grants made under subpart D of this part, the amount shall not exceed 15 percent of the grant plus 15 percent of program income, as defined in Sec. 570.500(a). For entitlement grants under subpart D of this part, compliance is based on limiting the amount of CDBG funds obligated for public service activities in each program year to an amount no greater than 15 percent of the entitlement grant made for that program year plus 15 percent of the program income received during the grantee's immediately preceding program year.

(2) A recipient which obligated more CDBG funds for public services than 15 percent of its grant funded from Federal fiscal year 1982 or 1983 appropriations (excluding program income and any assistance received under Public Law 98-8), may obligate more CDBG funds than allowable under paragraph (e)(1) of this section, so long as the total amount obligated in any program year does not exceed:

(i) For an entitlement grantee, 15% of the program income it received during the preceding program year; plus

(ii) A portion of the grant received for the program year which is the highest of the following amounts:

(A) The amount determined by applying the percentage of the grant it obligated for public services in the 1982 program year against the grant for its current program year;

(B) The amount determined by applying the percentage of the grant it obligated for public services in the 1983 program year against the grant for its current program year;

(C) The amount of funds it obligated for public services in the 1982 program year; or,

(D) The amount of funds it obligated for public services in the 1983 program year.

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(f) Interim assistance. (1) The following activities may be undertaken on an interim basis in areas exhibiting objectively determinable signs of physical deterioration where the recipient has determined that immediate action is necessary to arrest the deterioration and that permanent improvements will be carried out as

soon as practicable:

(i) The repairing of streets, sidewalks, parks, playgrounds, publicly owned utilities, and public buildings; and

(ii) The execution of special garbage, trash, and debris removal, including neighborhood cleanup campaigns, but not the regular curbside collection of garbage or trash in an area.

(2) In order to alleviate emergency conditions threatening the public health and safety in areas where the chief executive officer of the recipient determines that such an emergency condition exists and requires immediate resolution, CDBG funds may be used for:

(i) The activities specified in paragraph (f)(1) of this section, except for the repair of parks and playgrounds;

(ii) The clearance of streets, including snow removal and similar activities, and

(iii) The improvement of private properties.

(3) All activities authorized under paragraph (f)(2) of this section are limited to the extent necessary to alleviate emergency conditions.

(g) Payment of non-Federal share. Payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of CDBG activities, provided, that such payment shall be limited to activities otherwise eligible and in compliance with applicable requirements under this subpart.

(h) Urban renewal completion. Payment of the cost of completing an urban renewal project funded under title I of the Housing Act of 1949 as amended. Further information regarding the eligibility of such costs is set forth in Sec. 570.801.

(i) Relocation. Relocation payments and other assistance for permanently and temporarily relocated individuals families, businesses, nonprofit organizations, and farm operations where the assistance is (1) required under the provisions of Sec. 570.606 (b) or (c); or (2) determined by the grantee to be appropriate under the provisions of Sec. 570.606(d).

(j) Loss of rental income. Payments to housing owners for losses of rental income incurred in holding, for temporary periods, housing units to be used for the relocation of individuals and families displaced by program activities assisted under this part.

(k) Housing services. Housing services, as provided in section 105(a)(21) of the Act (42 U.S.C. 5305(a)(21)).

(l) Privately owned utilities. CDBG funds may be used to acquire, construct, reconstruct, rehabilitate, or install the distribution lines and facilities of privately owned utilities, including the placing underground of new or existing distribution facilities and lines.

(m) Construction of housing. CDBG funds may be used for the construction of housing assisted under section 17 of the United States Housing Act of 1937.

(n) Homeownership assistance. CDBG funds may be used to provide direct homeownership assistance to low- or moderate-income households in accordance with section 105(a) of the Act.

(o) (1) The provision of assistance either through the recipient directly or through public and private organizations, agencies, and other subrecipients (including nonprofit and for-profit subrecipients) to facilitate economic development by:

(i) Providing credit, including, but not limited to, grants, loans, loan guarantees, and other forms of financial support, for the establishment, stabilization, and expansion of microenterprises;

(ii) Providing technical assistance, advice, and business support services to owners of microenterprises and persons developing microenterprises; and

(iii) Providing general support, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services, to owners of microenterprises and persons developing

achieve the locality's community development objectives;

(4) Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification, or replacement of heating and cooling equipment, including the use of solar energy equipment;

(5) Improvements to increase the efficient use of water through such means as water savings faucets and shower heads and repair of water leaks;

(6) Connection of residential structures to water distribution lines or local sewer collection lines;

(7) For rehabilitation carried out with CDBG funds, costs of:

(i) Initial homeowner warranty premiums;

(ii) Hazard insurance premiums, except where assistance is provided in the form of a grant; and

(iii) Flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973, pursuant to Sec. 570.605.

(iv) Procedures concerning inspection and testing for and abatement of lead-based paint, pursuant to Sec. 570.608.

(8) Costs of acquiring tools to be lent to owners, tenants, and others who will use such tools to carry out rehabilitation;

(9) Rehabilitation services, such as rehabilitation counseling, energy auditing, preparation of work specifications, loan processing, inspections, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in rehabilitation activities authorized under this section, under section 312 of the Housing Act of 1964, as amended, under section 810 of the Act, or under section 17 of the United States Housing Act of 1937;

(10) Assistance for the rehabilitation of housing under section 17 of the United States Housing Act of 1937; and

(11) Improvements designed to remove material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to buildings and improvements eligible for assistance under paragraph (a) of this section.

(c) Code enforcement. Costs incurred for inspection for code violations and enforcement of codes (e.g., salaries and related expenses of code enforcement inspectors and legal proceedings, but not including the cost of correcting the violations) in deteriorating or deteriorated areas when such enforcement together with public or private improvements, rehabilitation, or services to be provided may be expected to arrest the decline of the area.

(d) Historic preservation. CDBG funds may be used for the rehabilitation, preservation or restoration of historic properties, whether publicly or privately owned. Historic properties are those sites or structures that are either listed in or eligible to be listed in the National Register of Historic Places, listed in a State or local inventory of historic places, or designated as a State or local landmark or historic district by appropriate law or ordinance. Historic preservation, however, is not authorized for buildings for the general conduct of government.

(e) Renovation of closed buildings. CDBG funds may be used to renovate closed buildings, such as closed school buildings, for use as an eligible public facility or to rehabilitate such buildings for housing.

(f) Lead-based paint activities. Lead-based paint activities as set forth in part 35 of this title.

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 60 FR 1944, Jan. 5, 1995; 60 FR 56911, Nov. 9, 1995; 64 FR 50225, Sept. 15, 1999]

microenterprises.

(2) Services provided this paragraph (o) shall not be subject to the restrictions on public services contained in paragraph (e) of this section.

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(3) For purposes of this paragraph (o), "persons developing microenterprises" means such persons who have expressed interest and who are, or after an initial screening process are expected to be, actively working toward developing businesses, each of which is expected to be a microenterprise at the time it is formed.

(4) Assistance under this paragraph (o) may also include training, technical assistance, or other support services to increase the capacity of the recipient or subrecipient to carry out the activities under this paragraph (o).

(p) Technical assistance. Provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities. (The recipient must determine, prior to the provision of the assistance, that the activity for which it is attempting to build capacity would be eligible for assistance under this subpart C, and that the national objective claimed by the grantee for this assistance can reasonably be expected to be met once the entity has received the technical assistance and undertakes the activity.) Capacity building for private or public entities (including grantees) for other purposes may be eligible under Sec. 570.205.

(q) Assistance to institutions of higher education. Provision of assistance by the recipient to institutions of higher education when the grantee determines that such an institution has demonstrated a capacity to carry out eligible activities under this subpart C.

[53 FR 34439, Sept. 6, 1988, as amended at 53 FR 31239, Aug. 17, 1988; 55 FR 29308, July 18, 1990; 57 FR 27119, June 17, 1992; 60 FR 1943, Jan. 5, 1995; 60 FR 56911, Nov. 9, 1995; 61 FR 18674, Apr. 29, 1996; 65 FR 70215, Nov. 21, 2000; 67 FR 47213, July 17, 2002]

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Subpart C--Eligible Activities

Sec. 570.202 Eligible rehabilitation and preservation activities.

(a) Types of buildings and improvements eligible for rehabilitation assistance. CDBG funds may be used to finance the rehabilitation of:

(1) Privately owned buildings and improvements for residential purposes; improvements to a single-family residential property which is also used as a place of business, which are required in order to operate the business, need not be considered to be rehabilitation of a commercial or industrial building, if the improvements also provide general benefit to the residential occupants of the building;

(2) Low-income public housing and other publicly owned residential buildings and improvements;

(3) Publicly or privately owned commercial or industrial buildings, except that the rehabilitation of such buildings owned by a private for-profit business is limited to improvements to the exterior of the building and the correction of code violations (further improvements to such buildings may be undertaken pursuant to Sec. 570.203(b));

(4) Nonprofit-owned nonresidential buildings and improvements not eligible under Sec. 570.201(c); and

(5) Manufactured housing when such housing constitutes part of the community's permanent housing stock.

(b) Types of assistance. CDBG funds may be used to finance the following types of rehabilitation activities, and related costs, either singly, or in combination, through the use of grants, loans, loan guarantees, interest supplements, or other means for buildings and improvements described in paragraph (a) of this section, except that rehabilitation of commercial or industrial buildings is limited as described in paragraph (a)(3) of this section.

(1) Assistance to private individuals and entities, including profit making and nonprofit organizations, to acquire for the purpose of rehabilitation, and to rehabilitate properties, for use or resale for residential purposes;

(2) Labor, materials, and other costs of rehabilitation of properties, including repair directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures, installation of security devices, including smoke detectors and dead bolt locks, and renovation through alterations, additions to, or enhancement of existing structures, which may be undertaken singly, or in combination;

(3) Loans for refinancing existing indebtedness secured by a property being rehabilitated with CDBG funds if such financing is determined by the recipient to be necessary or appropriate to

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Subpart C--Eligible Activities

Sec. 570.203 Special economic development activities.

A recipient may use CDBG funds for special economic development activities in addition to other activities authorized in this subpart which may be carried out as part of an economic development project. Guidelines for selecting activities to assist under this paragraph are provided at Sec. 570.209. The recipient must ensure that the appropriate level of public benefit will be derived pursuant to those guidelines before obligating funds under this authority. Special activities authorized under this section do not include assistance for the construction of new

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housing. Special economic development activities include:

(a) The acquisition, construction, reconstruction, rehabilitation or installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extensions. Such activities may be carried out by the recipient or public or private nonprofit subrecipients.

(b) The provision of assistance to a private for-profit business, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any activity where the assistance is appropriate to carry out an economic development project, excluding those described as ineligible in Sec. 570.207(a). In selecting businesses to assist under this authority, the recipient shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods.

(c) Economic development services in connection with activities eligible under this section, including, but not limited to, outreach efforts to market available forms of assistance; screening of applicants; reviewing and underwriting applications for assistance; preparation of all necessary agreements; management of assisted activities; and the screening, referral, and placement of applicants for employment opportunities generated by CDBG-eligible economic development activities, including the costs of providing necessary training for persons filling those positions.

[53 FR 34439, Sept. 6, 1988, as amended at 60 FR 1944, Jan. 5, 1995]

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Subpart C--Eligible Activities

Sec. 570.204 Special activities by Community-Based Development Organizations (CBDOs).

(a) Eligible activities. The recipient may provide CDBG funds as grants or loans to any CBDO qualified under this section to carry out a neighborhood revitalization, community economic development, or energy conservation project. The funded project activities may include those listed as eligible under this subpart, and, except as described in paragraph (b) of this section, activities not otherwise listed as eligible under this subpart. For purposes of qualifying as a project under paragraphs (a)(1), (a)(2), and (a)(3) of this section, the funded activity or activities may be considered either alone or in concert with other project activities either being carried out or for which funding has been committed. For purposes of this section:

(1) Neighborhood revitalization project includes activities of sufficient size and scope to have an impact on the decline of a geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation; or the entire jurisdiction of a unit of general local government which is under 25,000 population;

(2) Community economic development project includes activities that increase economic opportunity, principally for persons of low- and moderate-income, or that stimulate or retain businesses or permanent jobs, including projects that include one or more such activities that are clearly needed to address a lack of affordable housing accessible to existing or planned jobs and those activities specified at 24 CFR 91.1(a)(1)(iii);

(3) Energy conservation project includes activities that address energy conservation, principally for the benefit of the residents of the recipient's jurisdiction; and

(4) To carry out a project means that the CBDO undertakes the funded activities directly or through contract with an entity other than the grantee, or through the provision of financial assistance for activities in which it retains a direct and controlling involvement and responsibilities.

(b) Ineligible activities. Notwithstanding that CBDOs may carry out activities that are not otherwise eligible under this subpart, this section does not authorize:

(1) Carrying out an activity described as ineligible in Sec. 570.207(a);

(2) Carrying out public services that do not meet the requirements of Sec. 570.201(e), except that:

(i) Services carried out under this section that are specifically designed to increase economic opportunities

through job training and placement and other employment support services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services; and

(ii) Services of any type carried out under this section pursuant to a strategy approved by HUD under the provisions of 24 CFR 91.215(e) shall not be subject to the limitations in Sec. 570.201(e) (1) or (2), as applicable;

(3) Providing assistance to activities that would otherwise be eligible under Sec. 570.203 that do not meet the requirements of Sec. 570.209; or

(4) Carrying out an activity that would otherwise be eligible under Sec. 570.205 or Sec. 570.206, but that would result in the recipient's exceeding the spending limitation in Sec. 570.200(g).

(c) Eligible CBDOS. (1) A CBDO qualifying under this section is an organization which has the following characteristics:

(i) Is an association or corporation organized under State or local law to engage in community development activities (which may include housing and economic development activities) primarily within an identified geographic area of operation within the jurisdiction of the recipient, or in the case of an urban county, the jurisdiction of the county; and

(ii) Has as its primary purpose the improvement of the physical, economic or social environment of its geographic area of operation by addressing one or more critical problems of the area, with particular attention to the needs of persons of low and moderate income; and

(iii) May be either non-profit or for-profit, provided any monetary profits to its shareholders or members must be only incidental to its operations; and

(iv) Maintains at least 51 percent of its governing body's membership for low- and moderate-income residents of its geographic area of operation, owners or senior officers of private establishments and other institutions located in and serving its geographic area of operation, or representatives of low- and moderate-income neighborhood organizations located in its geographic area of operation; and

(v) Is not an agency or instrumentality of the recipient and does not permit more than one-third of the membership of its governing body to be appointed by, or to consist of, elected or other public officials or employees or officials of an ineligible entity (even though such persons may be otherwise qualified under paragraph (c) (1) (iv) of this section); and

(vi) Except as otherwise authorized in paragraph (c) (1) (v) of this section, requires the members of its governing body to be nominated and approved by the general membership of the organization, or by its permanent governing body; and

(vii) Is not subject to requirements under which its assets revert to the recipient upon dissolution; and

(viii) Is free to contract for goods and services from vendors of its own choosing.

(2) A CBDO that does not meet the criteria in paragraph (c) (1) of this section may also qualify as an eligible entity under this section if it meets one of the following requirements:

(i) Is an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making; or

(ii) Is an SBA approved Section 501 State Development Company or Section 502 Local Development Company, or an SBA Certified Section 503 Company under the Small Business Investment Act of 1958, as amended; or

(iii) Is a Community Housing Development Organization (CHDO) under

24 CFR 92.2, designated as a CHDO by the HOME Investment Partnerships program participating jurisdiction, with a geographic area of operation of no more than one neighborhood, and has received HOME funds under 24 CFR 92.300 or is expected to receive HOME funds as described in and documented in accordance with 24 CFR 92.300(e).

(3) A CBDO that does not qualify under paragraph (c)(1) or (2) of this section may also be determined to qualify as an eligible entity under this section if the recipient demonstrates to the satisfaction of HUD, through the provision of information regarding the organization's charter and by-laws, that the organization is sufficiently similar

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in purpose, function, and scope to those entities qualifying under paragraph (c)(1) or (2) of this section.

[60 FR 1944, Jan. 5, 1995]

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Subpart C--Eligible Activities

Sec. 570.207 Ineligible activities.

The general rule is that any activity that is not authorized under the provisions of Secs. 570.201-570.206 is ineligible to be assisted with CDBG funds. This section identifies specific activities that are ineligible and provides guidance in determining the eligibility of other activities frequently associated with housing and community development.

(a) The following activities may not be assisted with CDBG funds:

(1) Buildings or portions thereof, used for the general conduct of government as defined at Sec. 570.3(d) cannot be assisted with CDBG funds. This does not include, however, the removal of architectural barriers under Sec. 570.201(c) involving any such building. Also, where acquisition of real property includes an existing improvement which is to be used in the provision of a building for the general conduct of government, the portion of the acquisition cost attributable to the land is eligible, provided such acquisition meets a national objective described in Sec. 570.208.

(2) General government expenses. Except as otherwise specifically authorized in this subpart or under OMB Circular A-87, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.

(3) Political activities. CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally assisted with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis,

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and are assessed equal rent or use charges, if any.

(b) The following activities may not be assisted with CDBG funds unless authorized under provisions of Sec. 570.203 or as otherwise specifically noted herein or when carried out by a entity under the provisions of Sec. 570.204.

(1) Purchase of equipment. The purchase of equipment with CDBG funds is generally ineligible.

(i) Construction equipment. The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation, or use allowances pursuant to OMB Circulars A-21, A-87 or A-122 as applicable for an otherwise eligible activity is an eligible use of CDBG funds. However, the purchase of construction

equipment for use as part of a solid waste disposal facility is eligible under Sec. 570.201(c).

(ii) Fire protection equipment. Fire protection equipment is considered for this purpose to be an integral part of a public facility and thus, purchase of such equipment would be eligible under Sec. 570.201(c).

(iii) Furnishings and personal property. The purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. CDBG funds may be used, however, to purchase or to pay depreciation or use allowances (in accordance with OMB Circular A-21, A-87 or A-122, as applicable) for such items when necessary for use by a recipient or its subrecipients in the administration of activities assisted with CDBG funds, or when eligible as fire fighting equipment, or when such items constitute all or part of a public service pursuant to Sec. 570.201(e).

(2) Operating and maintenance expenses. The general rule is that any expense associated with repairing, operating or maintaining public facilities, improvements and services is ineligible. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program. For example, the use of CDBG funds to pay the allocable costs of operating and maintaining a facility used in providing a public service would be eligible under Sec. 570.201(e), even if no other costs of providing such a service are assisted with such funds. Examples of ineligible operating and maintenance expenses are:

(i) Maintenance and repair of publicly owned streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for persons with disabilities, parking and other public facilities and improvements. Examples of maintenance and repair activities for which CDBG funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs; and

(ii) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities.

(3) New housing construction. For the purpose of this paragraph, activities in support of the development of low or moderate income housing including clearance, site assemblage, provision of site improvements and provision of public improvements and certain housing pre-construction costs set forth in Sec. 570.206(g), are not considered as activities to subsidize or assist new residential construction. CDBG funds may not be used for the construction of new permanent residential structures or for any program to subsidize or assist such new construction, except:

(i) As provided under the last resort housing provisions set forth in 24 CFR part 42;

(ii) As authorized under Sec. 570.201(m) or (n);

(iii) When carried out by an entity pursuant to Sec. 570.204(a);

(4) Income payments. The general rule is that CDBG funds may not be used for income payments. For purposes of the CDBG program, "income payments" means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities, but excludes emergency grant payments made over a period of up to

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three consecutive months to the provider of such items or services on behalf of an individual or family.

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Subpart C--Eligible Activities

Sec. 570.208 Criteria for national objectives.

The following criteria shall be used to determine whether a CDBG-assisted activity complies with one or more of the national objectives as required under Sec. 570.200(a)(2):

(a) Activities benefiting low- and moderate-income persons. Activities meeting the criteria in paragraph (a) (1), (2), (3), or (4) of this section as applicable, will be considered to benefit low and moderate income persons unless there is substantial evidence to the contrary. In assessing any such evidence, the full range of direct effects of the assisted activity will be considered. (The recipient shall appropriately ensure that activities that meet these criteria do not benefit moderate income persons to the exclusion of low income persons.)

(1) Area benefit activities. (i) An activity, the benefits of which are available to all the residents in a particular area, where at least 51 percent of the residents are low and moderate income persons. Such an area need not be coterminous with census tracts or other officially recognized boundaries but must be the entire area served by the activity. An activity that serves an area that is not primarily residential in character shall not qualify under this criterion.

(ii) For metropolitan cities and urban counties, an activity that would otherwise qualify under Sec. 570.208(a)(1)(i) except that the area served contains less than 51 percent low and moderate income residents will also be considered to meet the objective of benefiting low and moderate income persons where the proportion of low and moderate income persons in the area is within the highest quartile of all areas in the recipient's jurisdiction in terms of the degree of concentration of such persons. In applying this exception, HUD will determine the lowest proportion a recipient may use to qualify an area for this purpose as follows:

(A) All census block groups in the recipient's jurisdiction shall be rank ordered from the block group of highest proportion of low and moderate income persons to the block group with the lowest. For urban counties, the rank ordering shall cover the entire area constituting the urban county and shall not be done separately for each participating unit of general local government.

(B) In any case where the total number of a recipient's block groups does not divide evenly by four, the block group which would be fractionally divided between the highest and second quartiles shall be considered to be part of the highest quartile.

(C) The proportion of low and moderate income persons in the last census block group in the highest quartile shall be identified. Any service area located within the recipient's jurisdiction and having a

proportion of low and moderate income persons at or above this level shall be considered to be within the highest quartile.

(D) If block group data are not available for the entire jurisdiction, other data acceptable to the Secretary may be used in the above calculations.

(iii) An activity to develop, establish, and operate for up to two years after the establishment of, a uniform emergency telephone number system serving an area having less than the percentage of low- and moderate-income residents required under paragraph (a)(1)(i) of this section or (as applicable) paragraph (a)(1)(ii) of this section, provided the recipient obtains prior HUD approval. To obtain such approval, the recipient must:

(A) Demonstrate that the system will contribute significantly to the safety of the residents of the area. The request for approval must include a list of the emergency services that will participate in the emergency telephone number system;

(B) Submit information that serves as a basis for HUD to determine whether at least 51 percent of the use of the system will be by low- and moderate-income persons. As available, the recipient must provide information that identifies the total number of calls actually received over the preceding 12-

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month period for each of the emergency services to be covered by the emergency telephone number system and relates those calls to the geographic segment (expressed as nearly as possible in terms of census tracts, block numbering areas, block groups, or combinations thereof that are contained within the segment) of the service area from which the calls were generated. In analyzing this data to meet the requirements of this section, HUD will assume that the distribution of income among the callers generally reflects the income characteristics of the general population residing in the same geographic area where the callers reside. If HUD can conclude that the users have primarily consisted of low- and moderate-income persons, no further submission is needed by the recipient. If a recipient plans to make other submissions for this purpose, it may request that HUD review its planned methodology before expending the effort to acquire the information it expects to use to make its case;

(C) Demonstrate that other Federal funds received by the recipient are insufficient or unavailable for a uniform emergency telephone number system. For this purpose, the recipient must submit a statement explaining whether the lack of funds is due to the insufficiency of the amount of the available funds, restrictions on the use of such funds, or the prior commitment of funds by the recipient for other purposes; and

(D) Demonstrate that the percentage of the total costs of the system paid for by CDBG funds does not exceed the percentage of low- and moderate-income persons in the service area of the system. For this purpose, the recipient must include a description of the boundaries of the service area of the emergency telephone number system, the census divisions that fall within the boundaries of the service area (census tracts or block numbering areas), the total number of persons and the total number of low- and moderate-income persons within each census division, the percentage of low- and moderate-income persons within the service area, and the total cost of the system.

(iv) An activity for which the assistance to a public improvement that provides benefits to all the residents of an area is limited to paying special assessments (as defined in Sec. 570.200(c)) levied against residential properties owned and occupied by persons of low and moderate income.

(v) For purposes of determining qualification under this criterion,

activities of the same type that serve different areas will be considered separately on the basis of their individual service area.

(vi) In determining whether there is a sufficiently large percentage of low- and moderate-income persons residing in the area served by an activity to qualify under paragraph (a)(1)(i), (ii), or (vii) of this section, the most recently available decennial census information must be used to the fullest extent feasible, together with the section 8 income limits that would have applied at the time the income information was collected by the Census Bureau. Recipients that believe that the census data does not reflect current relative income levels in an area, or where census boundaries do not coincide sufficiently well with the service area of an activity, may conduct (or have conducted) a current survey of the residents of the area to determine the percent of such persons that are low and moderate income. HUD will accept information obtained through such surveys, to be used in lieu of the decennial census data, where it determines that the survey was conducted in such a manner that the results meet standards of statistical reliability that are comparable to that of the decennial census data for areas of similar size. Where there is substantial evidence that provides a clear basis to believe that the use of the decennial census data would substantially overstate the proportion of persons residing there that are low and moderate income, HUD may require that the recipient rebut such evidence in order to demonstrate compliance with section 105(c)(2) of the Act.

(vii) Activities meeting the requirements of paragraph (d)(5)(i) of this section may be considered to qualify under this paragraph, provided that the area covered by the strategy is either a

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Federally-designated Empowerment Zone or Enterprise Community or primarily residential and contains a percentage of low- and moderate-income residents that is no less than the percentage computed by HUD pursuant to paragraph (a)(1)(ii) of this section or 70 percent, whichever is less, but in no event less than 51 percent. Activities meeting the requirements of paragraph (d)(6)(i) of this section may also be considered to qualify under paragraph (a)(1) of this section.

(2) Limited clientele activities. (i) An activity which benefits a limited clientele, at least 51 percent of whom are low- or moderate-income persons. (The following kinds of activities may not qualify under paragraph (a)(2) of this section: activities, the benefits of which are available to all the residents of an area; activities involving the acquisition, construction or rehabilitation of property for housing; or activities where the benefit to low- and moderate-income persons to be considered is the creation or retention of jobs, except as provided in paragraph (a)(2)(iv) of this section.) To qualify under paragraph (a)(2) of this section, the activity must meet one of the following tests:

(A) Benefit a clientele who are generally presumed to be principally low and moderate income persons. Activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low- and moderate-income: abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or

(B) Require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the low and moderate income limit; or

(C) Have income eligibility requirements which limit the activity exclusively to low and moderate income persons; or

(D) Be of such nature and be in such location that it may be concluded that the activity's clientele will primarily be low and

moderate income persons.

(ii) An activity that serves to remove material or architectural barriers to the mobility or accessibility of elderly persons or of adults meeting the Bureau of the Census' Current Population Reports Definition of "severely disabled" will be presumed to qualify under this criterion if it is restricted, to the extent practicable, to the removal of such barriers by assisting:

(A) The reconstruction of a public facility or improvement, or portion thereof, that does not qualify under paragraph (a)(1) of this section;

(B) The rehabilitation of a privately owned nonresidential building or improvement that does not qualify under paragraph (a)(1) or (4) of this section; or

(C) The rehabilitation of the common areas of a residential structure that contains more than one dwelling unit and that does not qualify under paragraph (a)(3) of this section.

(iii) A microenterprise assistance activity carried out in accordance with the provisions of Sec. 570.201(o) with respect to those owners of microenterprises and persons developing microenterprises assisted under the activity during each program year who are low- and moderate-income persons. For purposes of this paragraph, persons determined to be low and moderate income may be presumed to continue to qualify as such for up to a three-year period.

(iv) An activity designed to provide job training and placement and/or other employment support services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services, in which the percentage of low- and moderate-income persons assisted is less than 51 percent may qualify under this paragraph in the following limited circumstance:

(A) In such cases where such training or provision of supportive services assists business(es), the only use of CDBG assistance for the project is to provide the job training and/or supportive services; and

(B) The proportion of the total cost of the project borne by CDBG funds is no greater than the proportion of the

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total number of persons assisted who are low or moderate income.

(3) Housing activities. An eligible activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by low- and moderate-income households. This would include, but not necessarily be limited to, the acquisition or rehabilitation of property by the recipient, a subrecipient, a developer, an individual homebuyer, or an individual homeowner; conversion of nonresidential structures; and new housing construction. If the structure contains two dwelling units, at least one must be so occupied, and if the structure contains more than two dwelling units, at least 51 percent of the units must be so occupied. Where two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure. Where housing activities being assisted meet the requirements of paragraph Sec. 570.208 (d)(5)(ii) or (d)(6)(ii) of this section, all such housing may also be considered for this purpose as a single structure. For rental housing, occupancy by low and moderate income households must be at affordable rents to qualify under this criterion. The recipient shall adopt and make public its standards for determining "affordable rents" for this purpose. The following shall also qualify under this criterion:

(i) When less than 51 percent of the units in a structure will be occupied by low and moderate income households, CDBG assistance may be

provided in the following limited circumstances:

(A) The assistance is for an eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly rental housing project;

(B) Not less than 20 percent of the units will be occupied by low and moderate income households at affordable rents; and

(C) The proportion of the total cost of developing the project to be borne by CDBG funds is no greater than the proportion of units in the project that will be occupied by low and moderate income households.

(ii) When CDBG funds are used to assist rehabilitation eligible under Sec. 570.202(b)(9) or (10) in direct support of the recipient's Rental Rehabilitation program authorized under 24 CFR part 511, such funds shall be considered to benefit low and moderate income persons where not less than 51 percent of the units assisted, or to be assisted, by the recipient's Rental Rehabilitation program overall are for low and moderate income persons.

(iii) When CDBG funds are used for housing services eligible under Sec. 570.201(k), such funds shall be considered to benefit low- and moderate-income persons if the housing units for which the services are provided are HOME-assisted and the requirements at 24 CFR 92.252 or 92.254 are met.

(4) Job creation or retention activities. An activity designed to create or retain permanent jobs where at least 51 percent of the jobs, computed on a full time equivalent basis, involve the employment of low- and moderate-income persons. To qualify under this paragraph, the activity must meet the following criteria:

(i) For an activity that creates jobs, the recipient must document that at least 51 percent of the jobs will be held by, or will be available to, low- and moderate-income persons.

(ii) For an activity that retains jobs, the recipient must document that the jobs would actually be lost without the CDBG assistance and that either or both of the following conditions apply with respect to at least 51 percent of the jobs at the time the CDBG assistance is provided:

(A) The job is known to be held by a low- or moderate-income person;

or

(B) The job can reasonably be expected to turn over within the following two years and that steps will be taken to ensure that it will be filled by, or made available to, a low- or moderate-income person upon turnover.

(iii) Jobs that are not held or filled by a low- or moderate-income person may be considered to be available to low- and moderate-income persons for these purposes only if:

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(A) Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and

(B) The recipient and the assisted business take actions to ensure that low- and moderate-income persons receive first consideration for filling such jobs.

(iv) For purposes of determining whether a job is held by or made available to a low- or moderate-income person, the person may be presumed to be a low- or moderate-income person if:

(A) He/she resides within a census tract (or block numbering area) that either:

(1) Meets the requirements of paragraph (a)(4)(v) of this section;

or

(2) Has at least 70 percent of its residents who are low- and

moderate-income persons; or

(B) The assisted business is located within a census tract (or block numbering area) that meets the requirements of paragraph (a)(4)(v) of this section and the job under consideration is to be located within that census tract.

(v) A census tract (or block numbering area) qualifies for the presumptions permitted under paragraphs (a)(4)(iv)(A)(1) and (B) of this section if it is either part of a Federally-designated Empowerment Zone or Enterprise Community or meets the following criteria:

(A) It has a poverty rate of at least 20 percent as determined by the most recently available decennial census information;

(B) It does not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the tract has a poverty rate of at least 30 percent as determined by the most recently available decennial census information; and

(C) It evidences pervasive poverty and general distress by meeting at least one of the following standards:

(1) All block groups in the census tract have poverty rates of at least 20 percent;

(2) The specific activity being undertaken is located in a block group that has a poverty rate of at least 20 percent; or

(3) Upon the written request of the recipient, HUD determines that the census tract exhibits other objectively determinable signs of general distress such as high incidence of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline.

(vi) As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies under this paragraph, except:

(A) In certain cases such as where CDBG funds are used to acquire, develop or improve a real property (e.g., a business incubator or an industrial park) the requirement may be met by measuring jobs in the aggregate for all the businesses which locate on the property, provided such businesses are not otherwise assisted by CDBG funds.

(B) Where CDBG funds are used to pay for the staff and overhead costs of an entity making loans to businesses exclusively from non-CDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during each program year.

(C) Where CDBG funds are used by a recipient or subrecipient to provide technical assistance to businesses, this requirement may be met by aggregating the jobs created or retained by all of the businesses receiving technical assistance during each program year.

(D) Where CDBG funds are used for activities meeting the criteria listed at Sec. 570.209(b)(2)(v), this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during the program year, except as provided at paragraph (d)(7) of this section.

(E) Where CDBG funds are used by a Community Development Financial Institution to carry out activities for the purpose of creating or retaining jobs, this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities

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during the program year, except as provided at paragraph (d)(7) of this section.

(F) Where CDBG funds are used for public facilities or improvements which will result in the creation or retention of jobs by more than one business, this requirement may be met by aggregating the jobs created or retained by all such businesses as a result of the public facility or

improvement.

(1) Where the public facility or improvement is undertaken principally for the benefit of one or more particular businesses, but where other businesses might also benefit from the assisted activity, the requirement may be met by aggregating only the jobs created or retained by those businesses for which the facility/improvement is principally undertaken, provided that the cost (in CDBG funds) for the facility/improvement is less than \$10,000 per permanent full-time equivalent job to be created or retained by those businesses.

(2) In any case where the cost per job to be created or retained (as determined under paragraph (a) (4) (vi) (F) (1) of this section) is \$10,000 or more, the requirement must be met by aggregating the jobs created or retained as a result of the public facility or improvement by all businesses in the service area of the facility/improvement. This aggregation must include businesses which, as a result of the public facility/improvement, locate or expand in the service area of the facility/improvement between the date the recipient identifies the activity in its action plan under part 91 of this title and the date one year after the physical completion of the facility/improvement. In addition, the assisted activity must comply with the public benefit standards at Sec. 570.209(b).

(b) Activities which aid in the prevention or elimination of slums or blight. Activities meeting one or more of the following criteria, in the absence of substantial evidence to the contrary, will be considered to aid in the prevention or elimination of slums or blight:

(1) Activities to address slums or blight on an area basis. An activity will be considered to address prevention or elimination of slums or blight in an area if:

(i) The area, delineated by the recipient, meets a definition of a slum, blighted, deteriorated or deteriorating area under State or local law;

(ii) Throughout the area there is a substantial number of deteriorated or deteriorating buildings or the public improvements are in a general state of deterioration;

(iii) Documentation is maintained by the recipient on the boundaries of the area and the condition which qualified the area at the time of its designation; and

(iv) The assisted activity addresses one or more of the conditions which contributed to the deterioration of the area. Rehabilitation of residential buildings carried out in an area meeting the above requirements will be considered to address the area's deterioration only where each such building rehabilitated is considered substandard under local definition before rehabilitation, and all deficiencies making a building substandard have been eliminated if less critical work on the building is undertaken. At a minimum, the local definition for this purpose must be such that buildings that it would render substandard would also fail to meet the housing quality standards for the Section 8 Housing Assistance Payments Program-Existing Housing (24 CFR 882.109).

(2) Activities to address slums or blight on a spot basis. Acquisition, clearance, relocation, historic preservation and building rehabilitation activities which eliminate specific conditions of blight or physical decay on a spot basis not located in a slum or blighted area will meet this objective. Under this criterion, rehabilitation is limited to the extent necessary to eliminate specific conditions detrimental to public health and safety.

(3) Activities to address slums or blight in an urban renewal area. An activity will be considered to address prevention or elimination of slums or blight in an urban renewal area if the activity is:

(i) Located within an urban renewal project area or Neighborhood Development Program (NDP) action area; i.e., an area in which funded activities were

authorized under an urban renewal Loan and Grant Agreement or an annual NDP Funding Agreement, pursuant to title I of the Housing Act of 1949; and

(ii) Necessary to complete the urban renewal plan, as then in effect, including initial land redevelopment permitted by the plan.

Note: Despite the restrictions in (b) (1) and (2) of this section, any rehabilitation activity which benefits low and moderate income persons pursuant to paragraph (a) (3) of this section can be undertaken without regard to the area in which it is located or the extent or nature of rehabilitation assisted.

(c) Activities designed to meet community development needs having a particular urgency. In the absence of substantial evidence to the contrary, an activity will be considered to address this objective if the recipient certifies that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the recipient is unable to finance the activity on its own, and that other sources of funding are not available. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the certification by the recipient.

(d) Additional criteria. (1) Where the assisted activity is acquisition of real property, a preliminary determination of whether the activity addresses a national objective may be based on the planned use of the property after acquisition. A final determination shall be based on the actual use of the property, excluding any short-term, temporary use. Where the acquisition is for the purpose of clearance which will eliminate specific conditions of blight or physical decay, the clearance activity shall be considered the actual use of the property. However, any subsequent use or disposition of the cleared property shall be treated as a "change of use" under Sec. 570.505.

(2) Where the assisted activity is relocation assistance that the recipient is required to provide, such relocation assistance shall be considered to address the same national objective as is addressed by the displacing activity. Where the relocation assistance is voluntary on the part of the grantee the recipient may qualify the assistance either on the basis of the national objective addressed by the displacing activity or on the basis that the recipients of the relocation assistance are low and moderate income persons.

(3) In any case where the activity undertaken for the purpose of creating or retaining jobs is a public improvement and the area served is primarily residential, the activity must meet the requirements of paragraph (a) (1) of this section as well as those of paragraph (a) (4) of this section in order to qualify as benefiting low and moderate income persons.

(4) CDBG funds expended for planning and administrative costs under Sec. 570.205 and Sec. 570.206 will be considered to address the national objectives.

(5) Where the grantee has elected to prepare an area revitalization strategy pursuant to the authority of Sec. 91.215(e) of this title and HUD has approved the strategy, the grantee may also elect the following options:

(i) Activities undertaken pursuant to the strategy for the purpose of creating or retaining jobs may, at the option of the grantee, be considered to meet the requirements of this paragraph under the criteria at paragraph (a) (1) (vii) of this section in lieu of the criteria at paragraph (a) (4) of this section; and

(ii) All housing activities in the area for which, pursuant to the

strategy, CDBG assistance is obligated during the program year may be considered to be a single structure for purposes of applying the criteria at paragraph (a)(3) of this section.

(6) Where CDBG-assisted activities are carried out by a Community Development Financial Institution whose charter limits its investment area to a primarily residential area consisting of at least 51 percent low- and moderate-income persons, the grantee may also elect the following options:

(i) Activities carried out by the Community Development Financial Institution for the purpose of creating or retaining jobs may, at the option of the grantee, be considered to meet the requirements of this paragraph under the criteria at paragraph (a)(1)(vii) of this section in lieu of the criteria at paragraph (a)(4) of this section; and

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(ii) All housing activities for which the Community Development Financial Institution obligates CDBG assistance during the program year may be considered to be a single structure for purposes of applying the criteria at paragraph (a)(3) of this section.

(7) Where an activity meeting the criteria at Sec. 570.209(b)(2)(v) may also meet the requirements of either paragraph (d)(5)(i) or (d)(6)(i) of this section, the grantee may elect to qualify the activity under either the area benefit criteria at paragraph (a)(1)(vii) of this section or the job aggregation criteria at paragraph (a)(4)(vi)(D) of this section, but not both. Where an activity may meet the job aggregation criteria at both paragraphs (a)(4)(vi)(D) and (E) of this section, the grantee may elect to qualify the activity under either criterion, but not both.

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 50 FR 1945, Jan. 5, 1995; 60 FR 17445, Apr. 6, 1995; 60 FR 56912, Nov. 9, 1995; 61 FR 18674, Apr. 29, 1996]

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TITLE 24--HOUSING AND URBAN DEVELOPMENT

CHAPTER V--OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PART 570--COMMUNITY DEVELOPMENT BLOCK GRANTS--Table of Contents

Subpart C--Eligible Activities

Sec. 570.209 Guidelines for evaluating and selecting economic development projects.

The following guidelines are provided to assist the recipient to evaluate and select activities to be carried out for economic development purposes. Specifically, these guidelines are applicable to activities that are eligible for CDBG assistance under Sec. 570.203. These guidelines also apply to activities carried out under the authority of Sec. 570.204 that would otherwise be eligible under Sec. 570.203, were it not for the involvement of a Community-Based Development Organization (CBDO). (This would include activities where a CBDO makes loans to for-profit businesses.) These guidelines are composed of two components: guidelines for evaluating project costs and financial requirements; and standards for evaluating public benefit. The standards for evaluating public benefit are mandatory, but the guidelines for evaluating projects costs and financial requirements are not.

(a) Guidelines and objectives for evaluating project costs and financial requirements. HUD has developed guidelines that are designed to provide the recipient with a framework for financially underwriting and selecting CDBG-assisted economic development projects which are financially viable and will make the most effective use of the CDBG funds. These guidelines, also referred to as the underwriting guidelines, are published as appendix A to this part. The use of the underwriting guidelines published by HUD is not mandatory. However, grantees electing not to use these guidelines would be expected to conduct basic financial underwriting prior to the provision of CDBG financial assistance to a for-profit business. Where appropriate, HUD's underwriting guidelines recognize that different levels of review are appropriate to take into account differences in the size and scope of a proposed project, and in the case of a microenterprise or other small business to take into account the differences in the capacity and level of sophistication among businesses of differing sizes. Recipients are encouraged, when they develop their own programs and underwriting criteria, to also take these factors into account. The objectives of the underwriting guidelines are to ensure:

- (1) That project costs are reasonable;
- (2) That all sources of project financing are committed;
- (3) That to the extent practicable, CDBG funds are not substituted for non-Federal financial support;
- (4) That the project is financially feasible;
- (5) That to the extent practicable, the return on the owner's equity investment will not be unreasonably high; and
- (6) That to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the project.

(b) Standards for evaluating public benefit. The grantee is responsible for making sure that at least a minimum level of public benefit is obtained from the expenditure of CDBG funds under the categories of eligibility governed by these guidelines. The standards set forth below identify the types of public benefit that will be recognized for this purpose and the minimum level of each that must be obtained for the amount

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of CDBG funds used. Unlike the guidelines for project costs and financial requirements covered under paragraph (a) of this section, the use of the standards for public benefit is mandatory. Certain public facilities and improvements eligible under Sec. 570.201(c) of the regulations, which are undertaken for economic development purposes, are also subject to these standards, as specified in Sec. 570.208(a) (4) (vi) (F) (2).

(1) Standards for activities in the aggregate. Activities covered by these guidelines must, in the aggregate, either:

(i) Create or retain at least one full-time equivalent, permanent job per \$35,000 of CDBG funds used; or

(ii) Provide goods or services to residents of an area, such that the number of low- and moderate-income persons residing in the areas served by the assisted businesses amounts to at least one low- and moderate-income person per \$350 of CDBG funds used.

(2) Applying the aggregate standards. (i) A metropolitan city or an urban county shall apply the aggregate standards under paragraph (b) (1) of this section to all applicable activities for which CDBG funds are first obligated within each single CDBG program year, without regard to the source year of the funds used for the activities. A grantee under the HUD-Administered Small Cities or Insular Areas CDBG programs shall apply the aggregate standards under paragraph (b) (1) of this section to all funds obligated for applicable activities from a given grant; program income obligated for applicable activities will, for these purposes, be aggregated with the most recent open grant. For any time period in which a community has no open HUD-Administered or Insular Areas grants, the aggregate standards shall be applied to all applicable activities for which program income is obligated during that period.

(ii) The grantee shall apply the aggregate standards to the number of jobs to be created/retained, or to the number of persons residing in the area served (as applicable), as determined at the time funds are obligated to activities.

(iii) Where an activity is expected both to create or retain jobs and to provide goods or services to residents of an area, the grantee may elect to count the activity under either the jobs standard or the area residents standard, but not both.

(iv) Where CDBG assistance for an activity is limited to job training and placement and/or other employment support services, the jobs assisted with CDBG funds shall be considered to be created or retained jobs for the purposes of applying the aggregate standards.

(v) Any activity subject to these guidelines which meets one or more of the following criteria may, at the grantee's option, be excluded from the aggregate standards described in paragraph (b) (1) of this section:

(A) Provides jobs exclusively for unemployed persons or participants in one or more of the following programs:

(1) Jobs Training Partnership Act (JTPA);

(2) Jobs Opportunities for Basic Skills (JOBS); or

(3) Aid to Families with Dependent Children (AFDC);

(B) Provides jobs predominantly for residents of Public and Indian Housing units;

(C) Provides jobs predominantly for homeless persons;

(D) Provides jobs predominantly for low-skilled, low- and moderate-income persons, where the business agrees to provide clear opportunities for promotion and economic advancement, such as through the provision of training;

(E) Provides jobs predominantly for persons residing within a census tract (or block numbering area) that has at least 20 percent of its residents who are in poverty;

(F) Provides assistance to business(es) that operate(s) within a census tract (or block numbering area) that has at least 20 percent of its residents who are in poverty;

(G) Stabilizes or revitalizes a neighborhood that has at least 70 percent of its residents who are low- and moderate-income;

(H) Provides assistance to a Community Development Financial Institution that serve an area that is predominantly low- and moderate-income persons;

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(I) Provides assistance to a Community-Based Development Organization serving a neighborhood that has at least 70 percent of its residents who are low- and moderate-income;

(J) Provides employment opportunities that are an integral component of a project designed to promote spatial deconcentration of low- and moderate-income and minority persons;

(K) With prior HUD approval, provides substantial benefit to low-income persons through other innovative approaches;

(L) Provides services to the residents of an area pursuant to a strategy approved by HUD under the provisions of Sec. 91.215(e) of this title;

(M) Creates or retains jobs through businesses assisted in an area pursuant to a strategy approved by HUD under the provisions of Sec. 91.215(e) of this title.

(3) Standards for individual activities. Any activity subject to these guidelines which falls into one or more of the following categories will be considered by HUD to provide insufficient public benefit, and therefore may under no circumstances be assisted with CDBG funds:

(i) The amount of CDBG assistance exceeds either of the following, as applicable:

(A) \$50,000 per full-time equivalent, permanent job created or retained; or

(B) \$1,000 per low- and moderate-income person to which goods or services are provided by the activity.

(ii) The activity consists of or includes any of the following:

(A) General promotion of the community as a whole (as opposed to the promotion of specific areas and programs);

(B) Assistance to professional sports teams;

(C) Assistance to privately-owned recreational facilities that serve a predominantly higher-income clientele, where the recreational benefit to users or members clearly outweighs employment or other benefits to low- and moderate-income persons;

(D) Acquisition of land for which the specific proposed use has not yet been identified; and

(E) Assistance to a for-profit business while that business or any other business owned by the same person(s) or entity(ies) is the subject of unresolved findings of noncompliance relating to previous CDBG assistance provided by the recipient.

(4) Applying the individual activity standards. (i) Where an activity is expected both to create or retain jobs and to provide goods or services to residents of an area, it will be disqualified only if the amount of CDBG assistance exceeds both of the amounts in paragraph

(b) (3) (i) of this section.

(ii) The individual activity standards in paragraph (b) (3) (i) of this section shall be applied to the number of jobs to be created or retained, or to the number of persons residing in the area served (as applicable), as determined at the time funds are obligated to activities.

(iii) Where CDBG assistance for an activity is limited to job training and placement and/or other employment support services, the jobs assisted with CDBG funds shall be considered to be created or retained jobs for the purposes of applying the individual activity standards in paragraph (b) (3) (i) of this section.

(c) Amendments to economic development projects after review determinations. If, after the grantee enters into a contract to provide assistance to a project, the scope or financial elements of the project change to the extent that a significant contract amendment is appropriate, the project should be reevaluated under these and the recipient's guidelines. (This would include, for example, situations where the business requests a change in the amount or terms of assistance being provided, or an extension to the loan payment period required in the contract.) If a reevaluation of the project indicates that the financial elements and public benefit to be derived have also substantially changed, then the recipient should make appropriate adjustments in the amount, type, terms or conditions of CDBG assistance which has been offered, to reflect the impact of the substantial change. (For example, if a change in the project elements results in a substantial reduction of the total project costs, it may be appropriate for the recipient to reduce the amount of total CDBG assistance.) If the amount of CDBG assistance provided to the project is increased, the

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amended project must still comply with the public benefit standards under paragraph (b) of this section.

(d) Documentation. The grantee must maintain sufficient records to demonstrate the level of public benefit, based on the above standards, that is actually achieved upon completion of the CDBG-assisted economic development activity(ies) and how that compares to the level of such benefit anticipated when the CDBG assistance was obligated. If the grantee's actual results show a pattern of substantial variation from anticipated results, the grantee is expected to take all actions reasonably within its control to improve the accuracy of its projections. If the actual results demonstrate that the recipient has failed the public benefit standards, HUD may require the recipient to meet more stringent standards in future years as appropriate.

[60 FR 1947, Jan. 5, 1995, as amended at 60 FR 17445, Apr. 6, 1995]